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Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

WILL AUSTIN, an individual,

Plaintiff,

v.

PUREMATERIALS, LLC, a California
limited liability company; and DOES 1-10,

Defendants.

Case No. 3:24-cv-781

**PLAINTIFF'S COMPLAINT
FOR COPYRIGHT
INFRINGEMENT**

Jury Trial Demanded

Plaintiff Will Austin, through counsel, hereby prays to this honorable Court
for relief based on the following:

JURISDICTION AND VENUE

1. This action arises under the Copyright Act of 1976, 17 U.S.C. § 101, *et seq.*

2. This Court has federal question jurisdiction under 28 U.S.C. §§ 1331, 1338(a)-(b).

FIRST CLAIM FOR RELIEF


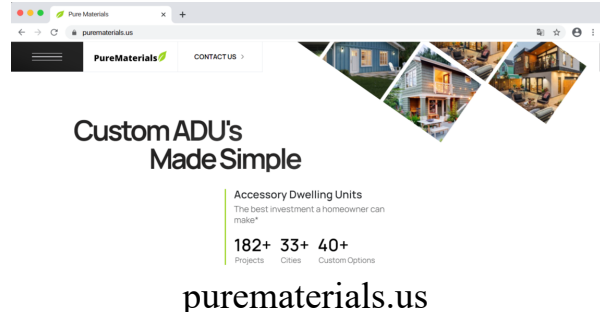
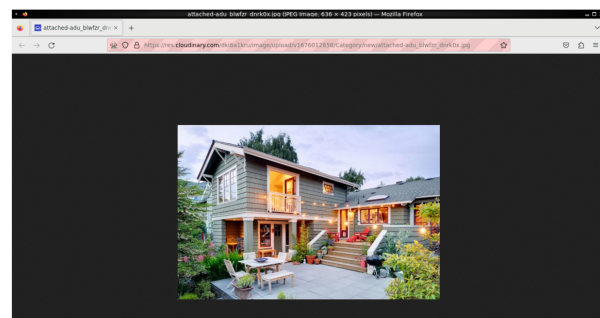
(For Copyright Infringement – Against All Defendants, and Each)

8. Austin is an award-winning photographer specializing in industrial, architectural, construction, and editorial imagery. Austin’s client list includes major corporations, publishers, architects, nonprofits, and other businesses, and his photos are distributed worldwide.

9. Austin took and owns an original photograph registered with the U.S. Copyright Office (collectively, the “Subject Photograph”).

10. Defendants (and each of them) stored, displayed, created derivative works of, distributed, and/or otherwise used verbatim copies of the Subject Photograph on Defendants’ Website for commercial purposes without Austin’s permission (collectively, the “Accused Posts”).

11. Copies of the Subject Photograph and screen captures of the Accused Posts are set forth below:

Subject Photograph	Accused Posts
 <p>salmonson-keff-062112-103-final-2</p>	  <p>res.cloudinary.com/dki6a1kru/image/upload/v1676012858/Category/new/attached-adu_blwfzr_dnrk0x.jpg</p>

12. Defendants had access to the Subject Photographs, including through Plaintiff's website, social media, profiles, exhibitions, or authorized licensees, an Internet search engine, or a third-party website or publication; and/or because the Accused Products are verbatim copies of, and thus strikingly similar to, the Subject Photograph.

13. Defendants, and each of them, stored, displayed, created derivative works of, distributed, and/or otherwise used verbatim copies of the Subject Photographs on Defendants' Website for commercial purposes without Plaintiff's permission.

14. Due to Defendants' acts of copyright infringement, Plaintiff has suffered damages in an amount to be established at trial.

15. Due to Defendants' acts of copyright infringement, Defendants, and each of them, have obtained profits they would not have realized but for their infringement of Plaintiff's copyrights in the Subject Photographs. This entitles Plaintiff to disgorgement of Defendants' profits attributable to Defendants' infringement in an amount to be established at trial.

16. Upon information and belief, Plaintiff alleges that Defendants, and each of them, have committed copyright infringement with actual or constructive knowledge of, or in reckless disregard or willful blindness for, Plaintiff's rights, such that said acts of copyright infringement were willful. Austin sent PureMaterials correspondence in August 2023 demanding that PureMaterials cease and desist from its unauthorized uses of the Subject Photographs, and requesting information needed to reach an amicable resolution of this dispute. Yet in February 2024, PureMaterials continued to display the Accused Posts on Defendants' Website, necessitating this action.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment as follows against all Defendants and with respect to each claim for relief:

- a. That Defendants be enjoined from using the Subject Photographs in any manner that infringes Plaintiff's rights in the same;
- b. That Plaintiff be awarded Defendants' profits, plus Plaintiff's losses, attributable to Defendants' infringements of the copyrights in the Subject Photographs, the exact sum to be proven at the time of trial; or, if elected, statutory damages as available under 17 U.S.C. § 504;
- c. That Plaintiff be awarded its costs and fees under 17 U.S.C. § 505;
- d. That Plaintiff be awarded pre-judgment interest as allowed by law;
- e. That Plaintiff be awarded such relief as the Court deems proper.

Plaintiff demands a jury trial on all issues so triable pursuant to Fed. R. Civ. P. 38 and the 7th Amendment to the United States Constitution.

Dated: February 8, 2024

DONIGER / BURROUGHS APC

By: /s/ Stephen M. Doniger
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Attorneys for Plaintiff